THE MORMON QUESTION.

ARGUMENT OF HON. JEFF CHANDLER ON THE PENDING BILLS.

The Legal Aspect of the Mormon Con troversy-Fower of the Government Over Churches, Private Trusts, and Religion-A Forcible Presentation Before the House Judiciary Committee of the Interests Involved.

The following is the full text of the argument of Jeff Chandler, esq., before the judi-ciary committee of the House of Represent-atives touching Senate bill No. 10, to amend ection 5352 of the Revised Statutes of the inited States In reference to bigamy and for

the condemned relations which are inhibited. When that cumeration was made it
appears that there were from ten to twolve
thousand of the so-called polygamists, bigamists, and those who unlawfully cohabit. Many
of these are old people.

It was said here the other day that only two
cases of conviction had been had of bigamy or
polygamy since the Edmunds law. Whether
hose two cases arose out of marriages before
to Edmunds law was enacted, or whether
hey were marriages that were not within the
caute of limitations, but made since the
Edmunds law was enacted, was not stated.

Mr. Baskin. One was a case before the Edmunds law, so that there has only been one
see since the Edmunds law went into effect.

Mr. Chandler. One case of polygamy has reulted in conviction in the territory of Utan
ary case had occurred in Massachusetts or
ermont, the country would not have been
hecked as it has been by its having occurred
in the territory of Utah. I am unably to disnguish the difference in moral porfishy
on our own standpoint of a case of bigamy in
erricont and one is Utah.

There having been but one conviction of
bigamy since 1882, it does not seem to me
events being in the control of the so-cauled
entile element, restranced by no sense of
lend-tip to the Mormons, the executive offire of the courts, also having the constabulary
the territory.

will to the first to complain. All the processes of refere-stress to insolion because of the research entry the research entry the research entry in the law adopts that profile. Heavy man is suffering from improper or wrong the restance in the law adopts that great principle of mannes—the sease of self-precipation in the individual—used allows the individual—used allows the individual in principle of mannes—the sease of self-precipation in the individual—used allows the indiv

the rotition power of the malority shall be taken away from these 150,000 and by left with the minority.

What is that they desire in this bill that is before this committee. The first acction provides that in any proceeding and examination before a grand jury, a judge, justice, or a United States commissioner, or a court, in any proceeding the proposed of the provider that the state of the Third States, the left in stand or wife of the Price States, the left in this and or wife of the person accused shall be a competent witness, and may be called and may be campelled to testify in such proceeding, examination, or proceeding without the consent of the hazband or wife, as the case may be.

There are constitutional provisions against connecting the party himself to testify against himself. At the time that this constitutional provision was made a wife was not a competent witness against her husband ander any circumstances neither was the husband a conceptent witness against the wife. If it had been contemplated that the wife or husband would have been in the future brought into conflict with each other as witnesses, does any man doubt that the provision would not have been an extensive as to forbid the summoning of the wife against the husband?

We are tool here that the marriage relation and the family, which is a product of it, is the most secret subject of our legislation; that it is

We are told here that the marriage relation and the family, which is a product of it, is the most scared subject of our legislation; that it is the initial matter of interest; that the law is devoted to the protection of the parity of the marriage relation; that this is the uppermost thought of the law. That proposition is acceptable to everybody.

Those who place the highest estimate upon the sanctity of the marriage relation object to the passage of this bill. It is thought to be such as will impair and injure this relation to make the husband and wife hostile wilnesses against each other. Our civilization protests against the introduction of husband and wife is witnesses against each other. Our civilization protests are in the introduction of husband and wife is witnesses against each other. The sanctity of the marriage relation is so great in the esteem of our civilization, that it is believed no discord should be permitted or promoted in the court, and, therefore, it was not within the

confidential. Therefore I say it is absurd to state that any limitation of confidence will be receipted.

One of the first principles of int legislation is that it shall be count; that it shall be uniform. This bill does not propose to make the hisband and wife witnesses against each other had seen that it shall be not propose to make the hisband and wife witnesses against each other had seen that the propose the state of evidence in that respect through the rule of evidence in that respect through the rule of evidence in that respect in the territory of the both that it is a statute changing the rule of evidence in respect to Mormon presecutions and none others. It does not apply to Gentlies. It is not a rule of evidence that can be applied to ordinary cases in the territory of that. It is not general in respect to its application to the linited States at large, not it general in respect to its application to the territory of that. It is not general in respect to its application to the territory of that. It is not general in respect to the application to the territory of that it is partial and special and oppressive and directed at a class of people in the territory of Utah.

Judge Gooley and writers on the constitution hold that haw cought to be equal; that that it is the great test of their justice. It would probably not be held that this law would be unconstitutional because of its inequality, but this constitutional adoption, if there be one, but it basts do with the question wnather this would be a wise law or not.

Mr. Stewart. Do you say that this law has no application to the fentiles in the territory of Utah.

Mr. Stewart. Do you say that this law has no applies that one of the property of the property

Mr. Chandler. Well. the provisions of the third section of the law as it stands are as follows:

"That if any male person, in a territory or other pince over which the United States has exclusive jurisdiction, hereafter cobabits with more than one woman he shall be deemed guilty of a insedemention, and on conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than \$500, or by both said punishments in the discretion of the count."

Yet the Supreme tourt hold that that section only applies to Mormons and actual cases where the vice which is supposed to be condemned by that section have been brought before the count, and the party charged with the shipeet of polygency, because it was said that the intent of Congress was to deal with the shipeet of polygency, because it was said that the intent of congress was to deal with the shipeet of polygency, because it was said that the intent of congress was to deal with the shipeet of polygency, because it was said that the intent of the same that the fall is dealing with filled relations between Gentiles, will it be held that this bill is dealing with filled relations. Between Gentiles, will it be held that this bill is dealing with filled relations between Gentiles with it be included in the same in any territory of the United States or in the District of Columbia, that the objection you raise here could be made to this statute? Is that your opinion as a lawyer?

Mr. Stewart, Do you say that if a Presbyte-tian or Episcopalian or Methodist or anybestycles was procecuted under this statute in any territory of the United States or in the District of Columbia, that the objection you raise here.

Mr. Stewart, Do you say that if a Pres

opinion as a lawyer.

Mr. Chandler, It would not be if it were not for the decision of the Supretic Court. I am bound by that.

Mr. Stewart. They have not given a construc-

accepted that construction of the statute as the correct one.

Mr. Stewart. That case was not before the United States Supreme Gourt was it?

Mr. Collins. Was it is his putition of habeas corpus that he was not a Mormon?

Mr. Chandler. That was the ground upon which the case was decided.

Mr. Stewart. You have no record of that case here, no opinion of the chief justice, have your? But no matter. The phraseology of this section seemed to be so broad that I could not understand any possible ground for making that folia.

be Supreme Court so held.
Judge Rugers, At that point I will call your attention to a class of decisions with which you are familiar, and which, perhap, missied you on that point. You are aware that in several states the statutes forbid colabitation. Now, so far as my own reading has gone, oven and notorious crimes of this kind are not sufficient to make out tilegal cohabitation, but that in order to make out tilegal cohabitation, but that in order to make out tilegal cohabitation, but that in order to make out tilegal cohabitation under the statutes it is essential that the parties shall have assumed the marriage relation, or hold themselves out as such. There is that distinction between a cuse of inlegal cohabitation and the one you are trying to sustain.

Mr. Chandier, If that is the character expection of this statute then it confirms my statement that the statute taself adopts the definition of cohabitation which you give, and limits its operations to Mormons, and that is precisely what I say.

Mr. Stewart, It limits its operations to polygamist marriages. In other words it is not almed at the general crime of impurity, but bigamist marriages by anybody. Is not that so?

Judge Rogers, That is the square issue that I suggested to you, and if you will allow me! I will state it again. In the one case society is not in the slightest degree imposed upon by open and notorious adultery of the parties. In the other case, where Mr. Smith holds out a party that is not Mrs. Smith as Mrs. Smith, he does impose a fraud on the society where halvies, and the supreme court of my own state made that distinction in the determination of that question. In other words, although the cohabitation actisted in both cases, the holding out to the community and to society the idea that the man was married to the woman made that distinction in the dose of the continuity and to society where halvies, and the suprementation publicly and natoriously, and that is called notofous adultery and is dominated in my state of literation in parti

Mr. Chandler. It does under your construction.
Mr. Stewart. You cannot do any more. You
cannot regulate the laws of a state without an
amendment to the constitution.
Mr. Chandler. It does not apply to all transactions, to everything over which the federal
government has jurisdiction. It only applies
to cases of bigamy, polygamy, and unlawful
cohabitation. Why not apply it to all cases of
contract, and in all cases where you want to
discover facts in court by evidence? Why not
make it general? Why not break down this
barrier against the introduction of husband
and wife in toto? Why make it limited and
partial. If it is a good thing it should be open
to all, and not made special and limited to a

class. Congress ought not to be governed by an uppear on the part of a few people who go out to Utah; people who do not five there, who have no interest in common with those people, who know rothing of the wants and needs of that community, but whose sole hashess. It is ogain neodiety by inflaming the country against them. If this committee is going to recommenta bill that bill ought to stand upon a solid legal and importial basis. It ought not to treat our whole political philosophy with contempt.

If this be a raintary rule make it general in the United States, and if it is not a saintary rule of evidence why introduced in Utah against the Mornous only? But it is contended here that this is an agarwaking and polluting system that in dealing with it the standard of luctice shall be changed, the rules of procedure changed so that we may the more

tended here that this is an aggravating and rolluting system that in dealing with it the standard of justice shall be changed, the rules of procedure changed so that we may the more completely overthrow this will than we would be able tode if we did not make the change. This proposed legislation assumes it to be the fact, that in the cylindon assumes it to be the fact, that in the cylindon assumes it to be the fact, that in the cylindon assumes it to be the fact, that in the cylindon assumes it to be the fact, that in the cylindon assumes the property of the united States to convict a man of polygany or bigsiny than it is to preserve the methods of procedure which have been sanctified during our entire history.

We have a maxim of law which furnishes possibly better than any other the criterion which should govern in the making of laws as well as in the administration of laws, and that is that it is better that n inety-nine guilty men escape than that one innocent man be convicted. How many times has that been solemnly declared by the highest judicial tribunals of this country? What does that maxim discloser What dees it signify; It signifies that unnety-nine parts of the administration of law consists in conservation, in prudence, in humanity, while one part consists of revenge and public passion. That there should be ninety-nine parts of eaution, ninety-nine parts of stability in your jurispudence, where there exists one part of excitement and uprost. I say that it is of much greater consequence to this country to preserve intact the greater continues of the hours of the sountry and a pride to the recopic that it is of infinitely greater consequence to preserve the law in its purity than it is to reach a conviction by relaxing therries of safety.

This live is not dedicated to the conviction of men. That is not our only national ambility in by not of the same as we have arrived at our high state of excitening force we have greater on a great people, are we liveling the month of the same of the past to meet th

against whom this thing is almed, who may be present and be heard and show that there is nothing in the suspicion, but the party may be put in jail and kept there ten days without a hearing. It may be the husband or the wife either. Now, suppose a judge administered this law who felt the seal requisite for a man who is appointed to go to the terftory of Utah and morally purify it, and he finds a prosecution about to be instituted against the husband. He believes, as a matter of course, that the wife will not appear. In that case he is authorized by this law, if it be valid, to issue an attachment for ten days, without a hearing, and at the call of that time she may be discharged. The bill says, 'provided that no person shall be held in custody under any attachment issued, as provided by this section, for a longer time than ten days; and the person attached may at any time secure his or her discharged. But heard by the first hand to day and the person attached may at any time secure his or her discharged. But here is the power given an officer of the law to put a person in jail ten days without any evidence at all, without an bearing, and unon nothing except the belief of the judge that the party will not obey the subtach. I that justice? Does that prevail in any civilized community in this world? Is it constitutional? Now, in the case, with which you are all familiar, of Bradley vs. Fisher, reported in 13 wallace, the subject of contempts before courts is gone over very fully by the Supreme Court, and they hold that though a count might punish a rerson for contempts committed in the presence of the court without hearing. The recommitted in the presence of the court without hearing. The recommitted in the presence of the court without hearing. The recommitted in the presence of the court without hearing. The recommitted in the presence of the court without hearing. The recommitted in the presence of the court without hearing. The recommitted in the presence of the court without hearing. The recommitted in the pr

in the presence of the count, over, to give him he presence of the count, over, to give him he he received the rours, the contempt of the process of the court state is no power to imprison without a hearing.

This bill does not contemplate a case of contempt, because there can be no contempt of the process of the court statil issued; there can be no failure to observe a process until the process of the court statil issued; there can be no failure to observe a process until the process of the court state of the process of the court state of the process of the court state of the process of law what yet a process of law what yet a per our goes before him and says, here: this party will probably heave the territory unless you issue this attechment; and that may be good ground for him to have the belief which is agoien of. The statute does not its any reflecton when shall govern him in this matter, and threstore he is to indee younds of belief.

It is said that bigamy, polygamy, and unlawful combitation are offensive to our civilization, and because they are offensive to our civilization of belief.

It is said that bigamy, polygamy, and unlawful combitation are offensive to our civilization offensive to a crime of bigamy or polygamy alone at which our civilization offensive to our civilization offensive to our civilization of belief in the principles of personal security which we have built up through centuries, and which we have built up through centuries, and which we have built up through centuries, and which we have inherited from our ancestors, it seems to work than horse stealing? Is bicany more offensive than the mere crime of bigamy or polygamy alone at which we have built up through centuries, and which we have built up through centuries, and which we have built up through centuries, and which we have built up through centuries and which we have built up through centuries and which we have inherited from our ancestors, it seems to have the north of the process of polygamy are not ranked and the him the proc

econdence as you would the evidence of anybody.

Suppose this were the Young Mon's Christian
Association comploming that you were propessing to ress a law to make their wives swear
anginst them. They would be incensed at the
idea of turning wives of the Young Men's
Christian Association against them; but it is
entirely different with Mormons, and it is
highly proper to invode what sancing there is
left to the marriage relation in Utah, where it
would not be under other circumstances. If
you are presenting this legislation to preserve
that sancing will you preserve it by the distince
gration of the relation its-if?

The Cheirman. Is that particular potition or
memorial in samphlet form, or in any form in
which any gentleman here may be turnished
with a copy?

Mr. Caine. I will furnish the committee with
coples.

witch any gentieman here may be furnished with a copy?

Mr. Caine. I will furnish the committee with conies.

Mr. Stewart. Mr. Chandler, you have used the term prejudice considerably in concertion with this matter; now, is not this the altuation, is it not true that one of the facts recognized as existing, that the general scattinent of the country is against polygamy as practiced or supposed to be practiced in Utah, and is not that the root of all the controversy which is now existing between the zeneral government and the Morrooms of Utah, and do you not unpiece it would be true that if the Morroom of Utah, and do you not unpiece it would be true that if the Morroom of Utah, and you call prejudice would vanish? Is not that the sole issue?

Mr. Chandler. I do not know myself. I simply saked that question.

Mr. Chandler. I do not know myself. I simply saked that question.

Mr. Chandler. I do not know myself. I simply saked that question.

Mr. Chandler. I do not know myself. I simply saked that question.

Mr. Chandler. I do not know myself. I simply saked that puestion.

Mr. Chandler. I do not know myself. I simply saked that puestion.

Mr. Chandler. I do not know myself. I simply saked that puestion.

Mr. Chandler. I do not want to say that prejudice is entirely the controlling influence in this case, but there is not an intelligent American who does not know that prejudice to some extent is involved, and that prejudice to some extent the controlling and the controlling that prejudice is some extent the prejudice to some extent the controlling and the controlling that of it.

Mr. Calline. And the country at every sign.

We used to hamp people in Massachusetts as witches. We had not there were no lawyers on the tench.

of the two are the same in law; but their be-lies are different. Under the theory of this bill the one who is honest in his belief rous be punished more savagely because of his be-lief. Old, settled, and salutary rules of pro-ectors are to be suspended in his case, while the evil-minded transgressor can invoke these old, settled, and salutary rules to secure to him a fair trial.

codere are to be suspended in his case, while the evil-minded transgressor can invoke these old, settled, and salutary rules to secure to him a his trial.

That is the point I am going to argue, and I thank the governor for asking the question. We had a statute in Missouri—where we administer the law, I suppose, as correctly as in any community in the world—which made it criminal for anyhody to aid or abet or sympathize with the rebellion, and after the war, when we were in a terrible state of excitement, a great many arrests were made under that section which condemns sympathy with the rebellion, and after a protracted struggle before one of the best courts we ever had, differing politically with the person charged. It held that there was no power in the government to prinsh a man who did not contribute directly to a specific act forbidden to be done, and that it was not competent to enter the dominion of private feeling or opinion or sympathy to purposition to make, and has not in it the slighest to a certain church, and a certain other man who steals horses also belongs to the church, is a cruel proposition to make, and has not in it the slighest legal support. Let me read an authority or swu upon that point, inastence as it is now up. I will read from 64 Mo, 400, Howard vs. Stewart: "It will thus be perceived that mere knowledge and mere intent stand upon one and the same feeting, and an examination of the adudicated cases, both in England and in this country, shows that the great current of authors tip flows in the above indicated direction, and that so long as a design to commit a misdement remains (in fort) unclothed with any of the attributes of legal tangibility, it will constitute no basis of defense to an action.

Another decision:

"If an explanation of the term alding and abetting, as used in our statute or in the common law definition of an accomplice, should be deemed necessary. It is proper that the explanatory terms used should convey a correct dea of the meaning of the ordense. The court proba

Now in the dictrine of conspiracy, so often appealed to tilt that doctrine is applicable to this case, then there is no need of this bill, because under section 549, as you gentlemen all know, conspiracy to commit any offense against the United States is now need that the season of the commit any offense against the United States is now need to prove the commit beam or persons conspire to commit beam or persons conspire to commit beam or persons conspire to commit bleam or pedygamy, if the law of conspiracy apply to such a transaction, which i claim does not and cannot, then the law is now ample, and two persons who conspire to do an act may be punished for that act, if the act itself be condemied. But the degree of participation in the act itself must be shown in order to convirt. Here is a case where a party stood by which a murder was being committed. He stood by and approved the crime of itself effection, the stood by and approved the crime of itself effection, and therefore the court say that it is incompetent to punish him for approval of a murder. The Supreme Court in this very class of cases drew the line between the opinions which those men entertain and the extent to which punishment may go for an act done. In those cases it is held that they could be punished only for overt acts done.

Will any lawyer say that if I recommend a man to commit bigamy that I could be jointly indicted with him for committing bigamy? It is not in the nature of a joint offense. There is no centerior with a principal or in the structes punish subornation of perjury, but do not punish two persons for the crime of one would any court construct that if I recommended a person to commit bigamy, and ne did commit bigamy, that I could be held for this bigamy. Can two men be indicted jointly for one committing perjury? Not at all. The structes punish subornation of perjury, but do not punish two persons for the crime of one why. Simply because the two cannot be jointly implicated in the moral perfidy of the false averaing by one. Ta

one Court of the United has repeatedly said

prime Court of the United has repeatedly add, constitute a rime, and not intent, but the forbidden act and intent toughter are necessary. But where is the authority for saying that the Mormans approve of bignay, polygany, and unlawful cohabitation. Has such proof been fled before this committee?

The Chairman, Refere you puss from the point that you are now discussing. I will ask you does this new art, Senate bill No. 10, propose anything in reference to the competency of jurors who are implicated in the same offense?

Mr. Chandler, No, sir; but the law as it stands row does.

or jurors who are implicated in the same of feme?

Mr. Chandler, No, sir; but the law as it stands row does.

The Chairman, And you are arguing on the validity of the law as it now is with a view to its amendment, I suppose?

Mr. Chandler, No, sir. I am arguing against this bill to show that there is not a provision in it that does not violate settled and accopted doctrines of our law. The law as it now stands punishes bigsiny, polygamy, and unlawful cohabitation, and that is all that can be done, I am not complaining, if the committee please, of the construction which has been given to the law as it now stands by those decisions here referred to; there is no proposition before this committee to repeal the law. There is no proposition here to modify the law, and the only objection we miss is against the bill proposed; against lest-slation for the future. Any one who will read the memorial of the ladles of Utah of adjudications there, and not dealed, the questions ruled upon by the court being set ont in full, will see that if any law can be made effected in reaching the result sought for, the law as it now stands does that. It goes to the limit of cruelty.

Mr. Chandler, It is from the ladies of Utah—a highly respectable class of ladies who live in Utah—and they are Mormons. That is their only offense. They come here and complain of their own prievances, not of those of others, as the Gentiles do, who have no grievance of their own to large with them; but these ladies come here setting up their wrongs, and I have not learnd they are attended to take their evidence you would accept it with as nuch faith and candidance as you would the evidence of any-body.

Suppose this were the Young Mon's Christian as sociation comploining that you were pro-

will you remove in the punishment of that orime all the aniguards to personal liberty? If we can suppress and subdue other criainals without doing anything but what is in perfect accord with the great principles of personal safety, why not regulate this matter by this same rules? All corrective process is naturally slow. You cannot at once expunge any state of things from the face of the earth. There have been established great guides of procedure which will not be departed from to punish mutder, larceny, or arson, or any other crime. We have adopted these methods because of their supreme excellence because of the good which they do to society in their careful, indicious, wise, and humane administration.

Now, you have a crime which offends a certain class of people who have worked themselves into a frenzy, and who are pursuing the Mormons as a calling, although they have not suffered a particle from them or anything relating to polygamy. They only know of polygamy by hearray, they have become pericely carriaged at what they call the terrible state of immorality in Utah, and they come to this committee and clamor that all the great principles of our law be suspended that we may punish this outrageous race of polygamists in the terribory of Utah. The remedy is tenfold worse than the disease. I believe that men develop under the protection that our law gives them faster than they do when these protections are forn down and our prejudices aroused to stamp out certain practices. Civilization is of slow growth.

The bull proposes to distrancials the wormen of Ciah. I never got very much excited in favor of weman suffrange, and I do not know that I ever shall. I think they have their own way now pretty generally. I never knew them to want for suphylang that they are belygamists or bigamists are disfrancible to a superally. I have knew them to want for suphylang that they do not great principles of that constitution. I protest against it.

This bill proposes to distrancialise the women of Ciah. I never got very much e

have been permitted to govern themselves without exception for the last sixty years. There was an exceptional government established in the territory of Florida at one time, but only to meet a temporary state of alfales. Since that time the psoide of the territory have been allowed to govern themselves.

Mr. Stewart, All except you people here in Washington.

Mr. Chardler, Here the government owns us body and soul. They own our parks and buildings, they own our streets, and we have but little to govern ourselves about.

The Chairman, Would not the reverse proposition in some degree be true—that you own the government?

Mr. Chardler. Not at all. I think the most insignificant position a man can occupy in Washington is to be a simple citizen. If he is not clothed with power he may not be a man to be looked upon with contempt, but he is regarded with the most painful indifference. But they do not propose to establish such a government in Utah as we have here. Here you have a committee for the District of Coumbia alone, and besides you own three-fourths of everything that is worth owning in the District. Then again a conference is constantly going on between the agencies you establish for government and pagencies you establish for government and pourselves. You do not give the commissioners any power to legislate as is assed for in Utah. Here is a proposition to give thirteen men the right to legislate as is assed for in Utah.

lished, is it less so now?

Mr. Stewart. I do not think it is worth while to spend ary time in arguing that point.

Mr. Chaneler. I will leave it.

Mr. Stewart. It occurred to me individually that it was not worth while to dwell further upon that point. If the chairman agrees with nie in that you might as well save the time.

The Chairman. You are arguing. Mr. Chandler, the proposition of committing the whole legislative power of the territory to a commission.

ion.
Mr. Chandler, Yes, sir.
The Chairman. That is not in the bill.
Mr. Chandler, No, sir, but it is in the argument of the gentleman who appeared here the The Charman. Hibble at it not to the bit most of the good can be read of the good can be read to the control of The Charmen. That is not in the bill.

Mr. Chandier. No, sir, but it is in the argument of the gentleman who appeared here the other day.

The Chairman. I think as it is not in the bill that I may sately say to the subcommittee that we do not propose to put it in.

Mr. Chandler. Very well. Now the next proposition is to appoint a board of government for the Mormon church. The President is authorized to appoint trustees and the Senate to confirm them, and they are to organize and to report to the Secretary of the Interior. A theological bureau is to be established, which shall be under the enlightened administration of Secretary Lamar. He is to be clothed with sacerolad robes, and to retreat into some obscure place when these theological questions arise and dispose of them. Now, can the government of the United States, no matter how ambitions, do that? I say not. I do not suppose there can be much controvers, about the relation which the church sastains to the general government, or to any government. The matter came up in Maxachusetts, where the first rays of a higher civilization are first seen, as is supposed. Judge Hoar held that churches were private trusts.

The Chairman. I am authorized to say on behalf of the subcommittee that we do not propose to become partners in running the Mormon church. The question is what may be done, or what should be done, in reference to the incorporation of the Mormon church, and the amount of property is shall hold is a question which you may discuss. The committee does not mean to abridge your line of argument, Mr. Chandler, bur simply say wherein we agree, and save you discussion. We accede to your proposition with reference to this church government.

Mr. Chandler, Everybody remembers, as quick as their attention is called to it, the

fleges that the first had, still that could not operate it, seems to me, to repeal the first charter or to incdify it. It does not seem to me that ith any wise abridges the privilege of the first, which were lawful when con-ferred. ous test shall be made in the admin stra

But to proceed, there is no complaint of the Mormon people generally. I have been untiling but estigat of them in their relations as citizons. They were the ploneers of that toritory. They carred out of that mountainous sterile region a field of enterprise, and laid the foundation of a community which has prespered wonderfully. They have been instrumental in promoting the improvement which the government presecuted seroes their territory, and there is to-day, after twenty-five or more years of settlement in that region, nothing said, against them as just and correct governors. Nothing is said against them as legislators. Nothing in the world is charged against their moral rectified and their fairness, except those three subjects, which are really one subject.

Congress in dealing with the subject had recourse to its power to correct and panish crime, in treating of that subject it has gone to a length which no state has gone to in the Union, and to which the federal government has not gone to in respect to any other crime. It is now proposed notwithstanding the penalties of bigainty are severer in Utah than in Versoont, not withstanding they are severer there than anywhere else in civilized countries to add to them. It is proposed that notwithstanding they are severer there than anywhere else in civilized countries to add to them. It is proposed that notwithstanding all the methods of discovery and punishment of crime, and the rules of redress which are acceptable elsewhere are open to the government here, that certain other additional and extraordinary remedies and methods shall be reproceed to their the court, if who have a shall provide the marriage relation and the personal security of the citizen. It for the first time proposes to bring the husband and and wite shall be arraigned against each other. Not the unlawful husband and wife, because there is no objection to that under the law said, therefore, be did not know to what extent it prevailed. If we do not know to what extent it prevailed, they could not coult is not cordinity in sympacty which we chiects and doctrines and purposes of the trust, that fact is of sufficient importance to authorize the court to remove him and appoint semebody class.

This caurch is by implication declared to be such a religious body as is protected by the constitution. The constitution does not permit the passage of any law in respect to the establishment of religion. The Mormon Church in contemplation of the constitution is a religious body. If it be a religious body then it is entitled to have the same protection as any religious body, though its doctrines are not universally approved of. The declaration of the constitution of the United States is a declaration of neutrality of the federal government in respect of religious opinion. It does not matter whether a man is a Jew or a Gentile, a Hindoo or a worshiper of the sun. Suppose citizens of the United States buy a lot under the shade of this capitol and dedicated it to the worship of the sun, has Congress any jurisdiction over it? I say not. In the controversy in the Senate over this bill it was claimed that if Mohammedans should undertake to establish a chapel in this country they could be forbidden. I deny it, Who is authorized to descend into the interior of this question and decide what is and what is not religion? You can punish over acts that are forbidden, no matter whether the violator be a Methodist, a Baptist, or belong to the Hindoo Church, but when you have done that you have exhausted your power, and you have no authority whatever to determine the moral difference or the theological difference between a set of Hindoo opinions and a set of Gatholic opinions.

The value of the constitutional provision is that it guarantees absolute freedom of opinion.

Judged to be guilty for five years.

Mr. Stewart. Or he had not been living with her?

Mr. Chandler. Yes, sir, if he had not been under the same roof with her and she not lived under the same roof with her and she not lived under the same roof with him. They held that unlawful cohabitation was proved if he supported her. Justice Miller, discenting from that opinion, says he knows of no instance where cohabitation has been construed to mean what the magistrate of the Utah court construed it to mean in that case. The memorial of the Mormon ladles sets out the case very clearly, showing to this committee that if a person had entered into that relation years before the Edmunds law was enacted, and there was no other proof before the court than that he entered into that relation, then he is presumed to be guilty of unlawful cohabitation, notwithstanding he shows that he has not visited the person for five years; that support of his obspring and of his so-called second wife is sufficient evidence to authorize the conviction of guilt. I say that is against the judgment of the civilized world, and that construction is what they complain of.

The Chairman, Will you say that was de-

a set of Hindoo opinions and a set of Catholic opinions.

The value of the constitutional provision is that it guarantees absolute freedom of opinion. That was what it was meant to chronicle. This was what was meant to be protected. I deny that you can condemn this church because you would not join it, and condemn the Hindoo church because you would not join a Hindoo circle of worshipers, or that you can legislate against the worshipers of the sun, because you hold in high derision their opinions.

Mr. Stewart, To illustrate my idea, suppose

of.

The Chairman, Will you say that was decided in the opinion of the Supreme Court?

Mr. Chandler, Yea, sir. We are not asking now that the law as construed be repealed; we say, as the law now is, it is sufficiently harsh for anybody, no matter how bitterly they feel toward the Mormons.

Mr. Stewart, Wore not these relationships, these trials of cases for the most part, those loward the Mormons.

Mr. Stewart. Were not these relationships, these trials of cases for the most part, those that were established after the passage of the law of 1-52 prohibiting polygamy?

Mr. Chandler, I suppose so

Mr. Stewart. Then they went into it with their eyes open? They knew it was against the law.

Mr. Chandler, I am not complaining of the nomishment of it under a proper construction

because you hold in high derision their opinions.

Mr. Stewart. To illustrate my idea, suppose the Hindoos came here to some one of our territories, and by an act of the territorial legislature incorporated a Hindoo church. Now, while it might be true that the Hindoos would have the right to exercise their own private relief, and to associate together for the worship of their deity, or we a ever it might be, would it necessarily be true that Congress could not dissolve that organization as a corporate body? In other words, would that be an interference with the exercise of the parsonal right of every individual in this country to entertain and believe and worship anything and anybody he saw proper to do? In one case you deal with the individual. You give him perfect freedom, and in the other case you deal with an organization which derives its existence directly from the territorial legislation. Now, to you say that in a case of that sort that Congress has no power to dissolve that body and leave them to continue their methods of worship, but not under corporate form?

Mr. Chandler. That returns to the inquirry

in Calcutta a lew years ago to take into consideration the policy that they were to extinate the term of the Hindson whom they converted, and who maintained these relations, and it was never thought improper by any of them for the party to support the wife and offspring after conversion, and the discussion of the subject went so far as to say that it was inhuman and unchristianlike not to do so. Yet it is criminal in these people in Utah to do that which is right. I say that there can be no case of constructive co-habitation as distinguished from real cohabitation. These men believe that if they obey this law as so construed, and desert their offspring and renounce their wives, they will be ostracized, and so they would be in the District of Columbia or elsewhere.

I have rambled through this subject. The committee has called my attention to specific things, and I have left other matters unbunched I intended to speak of, and therefore have not gone through the subject coherently.

The Chairman I do not want you to feel that the interruptions should have the effect of curtailing your argument in any degree.

of curraining your arginnent in any degree. The purpose really has been to eall your attention of the committee of the wide members of the committee of the wide members of the committee of the wide members of the committee of the wide of the committee of the co

It is provided in one section of this bill that proceedings be instituted to escheat this property to the government.

Section 15 of this bill cannot be maintained if passed, for the reason that it is not competent for Congress. If a corporation has taken properly in axcess of the amount under its charter it may hold, to forficit that properly to the United States. This bill provides that the Attorney General shall institute proceedings to forfill and escheat to the United States property of caparations held in violation of section 1800 of the Revised Statutes.

This contemplates, in effect, that all of said property which shall be held in excess of \$50,000 shall be confiscated by the United States government.

This content laives, in effect, that all of said property which shall be held in excess of \$50,000 shall be confiscated by the United States government.

The doctrine of eschest has nothing to do with the matter, and the word "escheat" is used in the bill without an apparent knowledge of its meaning. Property escheats to the government culy in case of an extinction of tenure—where there are no heirs to receive it. (4 Kent's Com., 431. This section does not make a new definition of the word "eschear," but uses it with its old definition, and makes that provision of the bill, so far as the doctrine of cheat is alluded to, absurd.

The word "forfeiture," which is miscellaneously thrown into association with the word escheat, indicates an entirely different state of facts from those governing escheat. Chancellor Kent says (4 vol., 439) there is a distinction between escheat and forfeiture to the crown. The law of forfeiture went beyond the law of escheat. It extinguished forever all inheritable quality of the vassal's blood. Their blood was attainted. The law of forfeiture to the crown. The law of horfeiture went beyond the law of escheat. It extinguished forever all inheritable quality of the vassal's blood, Their blood was attainted. The law of forfeiture comercian between escheat and forfeiture to the crown. The law of horfeiture was the country, is universally abolished. (4 Kent's Com., 425).

If the church, or any other corporation, has assumed to take land or property in excess of the amount which the law permits them to take, and in violation of the law, the conveyance of such property to such corporation under such circumstances is simply void, and is no conveyance. The utmost that the government cakes land by escheat or by forfeiture it takes it with the title which the property. Eyen at common law where the government takes land by escheat or by forfeiture of the particular estate.

But the law limiting the power of the church boil over 550,060 worth of real estate was parsed ten years after the charter w

eriment, which is not the case here. The limitation, therefore, to enforce which provision is here made, is void and can not be enforced.

Mr. Stewart. I will call your attention to the first section of this bill, which provides that the wife is a competent witness in this case. Now, the wife in many cases is admitted to testify against her husband, such as in acts of violence, or currence upon her rights. For instance, if the husband brings an assent and battery upon her I suppose she is percaited to testify and ought to testify. Now, then, door not that question turn upon this pointing of the wife is an outrage on the rights of the wife, as in addictry, which is an outrage on the legal wife, is there any intrusic objection, let alone the sacredoes of the marriage the Women do not have many rights under the common law, any way, and is there any intrusic objection to having the woman put on the stand to testify saginst the husband who is guilty of an outrage of the rights of the wife. If there is no violation of any right, it is of course coreceded that it would infringe the principle you uponly, if you permitted her to testify, but it seems to me when you concederify on do a needer that a second marriage, if a violation or a sacred right of hers, that you do not violate any seem by principle when you put her on the stand and compel her to stand up, not only in her own interest, but in the view of the crime, a public interest. If it is an outrage against good morats, as well as against the wife, why should you not compel her to testify—not so much in her two interests as in flucase of an act done in violation of the public right. Now what do you say to that?

Mr. Ch notice, I have simply to say to that, in the first place, the whole question, as I appreciate it, rests upon the assumption that such an act of the husband is a personal injury to or a violation of the violation of the wife. Mr. Chandler, Well, I do not know: I have